

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:19-00012

TONYA MARIE HARPER

MEMORANDUM OPINION AND ORDER

On March 26, 2019, the defendant appeared in person and by counsel, Brady A. Campbell; the United States appeared by Drew O. Inman, Assistant United States Attorney; for a hearing in the above criminal matter. At that hearing, the court took up the United States' Motion in Limine seeking to permit the introduction of certain evidence. For reasons to be placed on the record in a subsequent order, the court **GRANTED** the government's motion. Because of the late disclosure of Benjamin John Mooney as a witness at trial, defendant requested that the trial, scheduled to begin on March 27, 2019, be continued to allow time to investigate Mooney and more fully consider his proposed testimony.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court found that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTED** the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors

outlined in 18 U.S.C. §3161(h) (7) (B) and found that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until April 29, 2019, at 9:30 a.m., in Charleston.
2. Pursuant to 18 U.S.C. § 3161(h) (7) (A), the time from defendant's oral motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 27th day of March, 2019.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge